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testator to a legatee, a married woman, which she was morally though not legally bound to repay, could not be set off against her legacy. *In re Wheeler*, [1904] 2 Ch. 66. The present decision can be supported, if at all, only on the ground that it would be unconscionable for the beneficiary to take his share of the estate without accounting for the debt.

**EXTRADITION — INTERNATIONAL EXTRADITION — RETROACTIVE TREATY.** The defendant, having committed bribery in Ohio in 1906, fled to Ontario. The Ohio authorities demanded his return under the treaty between Great Britain and the United States. This treaty was not ratified until 1907, but it provided that there might be extradition for bribery committed since 1889. *Held*, that the defendant may be extradited. *Re Cannon*, 12 Ont. W. Rep. 171.

A fugitive from the justice of one country is not guaranteed an asylum in any other country. *Ker v. Illinois*, 119 U. S. 436. Extradition, therefore, is a mere form of procedure which deprives him of no substantial right. Accordingly it is not a form of punishment within the meaning of the United States constitutional provision against *ex post facto* laws. *Duncan v. Missouri*, 152 U. S. 377. And in the United States it seems settled that an extradition treaty operates retroactively unless it contains a provision expressly declaring that it shall not apply to crimes committed prior to its conclusion. *In re De Giacomo*, 12 Blatchf. (U. S.) 391. *A fortiori* the defendant is liable to be extradited where the parties to the treaty, as in the one under consideration, clearly intended it to have a retroactive effect.

**GOOD WILL — BASIS OF VALUATION ON DISSOLUTION OF PARTNERSHIP.** — A retiring partner demanded an accounting for his share in the firm assets, including the good will, from the surviving partner who had taken over the entire assets of the firm and continued the business under the old name. *Held*, that the defendant must account for salable value of the good will at the time of dissolution on the basis that either partner has a right to carry on a new business of the same kind and to solicit trade from customers of the old firm. *Moore v. Rawson*, 85 N. E. 586 (Mass.).

When a partnership business has been sold under bankruptcy proceedings, the law of both England and this country allows either partner to set up a new business of the same kind and to solicit trade from the customers of the old firm, and the value of the good will is estimated accordingly. *Walker v. Mottram*, 19 Ch. D. 355; *Hutchinson v. Nay*, 187 Mass. 262. When, however, there is a voluntary sale by one partner of his interest in the business, the English law, though it allows the seller to set up a new business of the same kind, prohibits him from soliciting the patronage of the customers of the old firm and the courts assess the good will on this basis. *Trego v. Hunt*, [1896] A. C. 7. In the case of a sale of the good will on dissolution of a partnership the English courts apply the rule in voluntary sales. *In re David and Matthews*, [1897] 1 Ch. 378. But in the principal case the rule in sales under bankruptcy proceedings was applied. It is submitted that the sale was essentially voluntary, and that therefore the English view should have been followed.

**HABEAS CORPUS — PARENT'S RIGHT TO WRIT DISCHARGING INFANT SON FROM ARMY.** — A parent sued out a writ of *habeas corpus* to secure the discharge of his infant son from the army under R. S. U. S. § 1117, which provided that "no person under the age of twenty-one years shall be enlisted or mustered into the service of the United States without the written consent of his parents or guardian." After the writ had issued the infant was arrested and charges were instituted against him for fraudulent enlistment. *Held*, that the writ should be dismissed. *Ex parte Lewkowicz*, 163 Fed. 646 (Circ. Ct., S. D. N. Y.).

The enlistment of an infant over sixteen years of age is binding upon the infant himself, but voidable at the option of the parent or guardian. *In re Morrissey*, 137 U. S. 157. If the infant has been sentenced by court martial, he will not be released on the petition of his parent or guardian. *In re Dowd*, 90 Fed. 718. Nor will he be released if a court martial has obtained jurisdiction

of the cause before such petition. *In re Miller*, 114 Fed. 838; *In re Scatt*, 144 Fed. 79. But it has been held that where the arrest is made and charges are preferred after the petition, a writ of *habeas corpus* should issue. *Ex parte Houghton*, 129 Fed. 239. See *In re Carver*, 103 Fed. 624. A number of cases, however, hold that, when an arrest has been made and a writ has issued, if charges are later preferred against the infant before the final hearing, the writ should be discharged. *United States v. Reaves*, 126 Fed. 127; *In re Carver*, 142 Fed. 623. On principle these cases seem indistinguishable. In both cases proceedings were pending, but in neither had the court martial obtained jurisdiction when the petition was filed. The principal case seems right, therefore, in holding that the latter cases practically overrule the former; and the practical result reached seems desirable.

**INDEMNITY — TORT COMMITTED AT ANOTHER'S REQUEST.** — The defendant, a stockbroker, identified a woman at the plaintiff bank as the owner of certain stock, receiving only a nominal fee for his trouble. He had good reason for thinking her to be the owner, but she was in fact a fraudulent impersonator. At her order the bank registered a transfer of the stock, which it was later compelled to make good to the true owner. *Held*, that the defendant is bound to indemnify the plaintiff as having impliedly requested the transfer. *Bank of England v. Culler*, [1908] 2 K. B. 208. See NOTES, p. 131.

**INJUNCTIONS — ACTS RESTRAINED — CONTRACT IN RESTRAINT OF TRADE.** The plaintiff and the defendant, practicing dentists, entered into a contract whereby the defendant agreed not to practice a certain method of extracting teeth in Philadelphia for ten years. The plaintiff filed a bill to enjoin the defendant from so practicing. *Held*, that although the contract is good at law, the plaintiff is not entitled to an injunction. *Thomas v. Borden*, 65 Leg. Int. 404 (Pa., Dist. Ct., July 31, 1908).

Equity frequently refuses an injunction on the ground that it would work an injury to the public. *Valparaiso v. Hagen*, 153 Ind. 337. See 22 HARV. L. REV. 61. But this doctrine seems never to have been applied to the case of a contract in restraint of trade admittedly good at law. The logical reason for this is that any unreasonable restraint of trade renders a contract invalid. *Nordenfelt v. Maxim, etc., Co.*, [1894] A. C. 535. If the contract is valid, it follows that it does not unreasonably restrain, and therefore equity should not on this ground refuse to enjoin a breach. It is clear that physicians may be enjoined from breaking agreements not to practice in a certain vicinity. *Wilkinson v. Colley*, 164 Pa. St. 35; *Beatty v. Coble*, 142 Ind. 329. But here it was contended that the agreement tended to give the plaintiff a quasi-monopoly on this particular method of extracting teeth. The court ruled that there can be no equitable right to a monopoly in the means of relieving human suffering. This doctrine, if followed to its logical conclusion, would preclude equity from protecting patents on surgical instruments and medicines. Clearly that is not law. *Farbenfabriken of Elberfeld Co. v. Harriman*, 133 Fed. 313; *Rowley v. Koeber*, 135 Fed. 363.

**INSURANCE — RESCISSION OF CONTRACT FOR FRAUD.** — The plaintiff was induced to continue a policy of life insurance by the fraudulent representations of the insurer's agent. *Held*, that on discovering the fraud the plaintiff can rescind, and recover the full amount of the premiums paid. *Kettlewell v. Refuge Assurance Co.*, 24 T. L. R. 216 (Eng., Ct. App., June 10, 1908). See NOTES, p. 134.

**INTERSTATE COMMERCE — INTERSTATE COMMERCE COMMISSION — EFFECT ON JURISDICTION OF TERRITORY'S BECOMING STATE.** — A complaint was filed before the Interstate Commerce Commission stating that the defendant maintained an unreasonable rate on shipments between two towns and asking that the rate be made reasonable for the future and that the complainant be awarded damages on past shipments. Thereafter the territory within which both towns lie was admitted into the Union as a state. *Held*, that the Commission has no jurisdiction, not only as to regulating the rate for the future, but also